

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JASON GREGORY OWENS and DANIEL DAVIS,

Case No. 22-2062cv

Plaintiff,

-against-

PETITION FOR REMOVAL

ELUSMOND CESAIRE and DMCESAIRE TRANSPORT,
LLC,

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PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441(a) and (b), 1443 and 1446, as amended, defendants, ELUSMOND CESAIRE and DMCESAIRE TRANSPORT, LLC, by their attorney, Christopher Zachry, Esq. of the law firm of Morris Duffy Alonso & Faley, states the following grounds for removal of this action to the United States District Court for the Eastern District of New York:

1. A civil complaint (the "Complaint") is pending against the defendants in the Supreme Court of the State of New York, County of Queens, caption *Jason Gregory Owens and Daniel Davis v. Elusmond Cesaire and DMCESAIRE TRANSPORT, LLC*, Index #704929/22. On or about March 7, 2022, the plaintiff filed a Summons and Complaint with the Queens County Clerk, a copy of which is annexed hereto as **Exhibit "A"**.

2. This action is removable under 28 U.S.C. § 1441(a) and (b) because this Court would have original diversity jurisdiction over this action under 28 U.S.C. § 1332(a) and defendants are not a resident of New York. *See* 28 U.S.C. § 1441 (b)(2).

3. As set forth in the Complaint, defendants were, at the time of the subject accident,

and remain citizen/corporation of Pennsylvania. *See* Ex. “A,” ¶ 3 and 4.

4. As set forth in the affidavit of defendant, ELUSMOND CESAIRE, a copy of which is annexed hereto as **Exhibit “B,”** at all times relevant herein, defendants have been citizens of the State of New Pennsylvania.

5. Accordingly, there is complete diversity between Plaintiff and Defendants.

6. Plaintiff is alleging to have sustained a serious injury as defined by Section 5102 of the Insurance Law of the State of New York. As such, the amount in controversy exceeds the jurisdictional minimum. *See* 28 U.S.C. § 1332(a).

7. Pursuant to 28 U.S.C. § 1441(b), “...any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(b).

8. The Eastern District of New York is the district and division embracing the County of Queens, where the above-referenced State court action is pending.

9. Written notice of the filing of this Petition for Removal will be promptly given to all parties after filing this Petition.

10. A true and correct copy of this notice of removal will be filed with the Clerk of the Supreme Court of the State of New York in and for the County of Queens, promptly after filing of this notice with this Court.

11. Defendants have made no previous application for the relief requested herein.

WHEREFORE, the defendants pray that the action now pending in the Supreme Court of the State of New York, County of Queens, be removed to this Court.

Dated: New York, New York
April 8, 2022

Yours etc.,

Christopher G. Zachry

By: _____

Christopher G. Zachry
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